

LEGACY PARK

THIS CONTRACT made and entered into this _____ day of _____ 2014, by and between Pitzer's Lawn Management, Inc. party of the First Part, hereinafter designated as the CONTRACTOR, and the Norman Tax Increment Finance Authority, a public trust, hereinafter designated as the NTIFA, party of the Second Part.

WITNESSETH

LAWN SERVICES, CHEMICAL PROGRAM & IRRIGATION MAINTENANCE CONTRACT

WHEREAS, the NTIFA has caused to be prepared in accordance with law, specifications, and other bidding and/or request for proposal documents for the work hereinafter described and has received, approved and adopted all of said bidding and/or request for proposal documents, and has caused Notice to Bidders and/or request for proposal to be given and advertised as required by law, and has received proposals for the furnishing of all labor and materials for the following project:

As outlined and set out in the request for proposals of work and in accordance with the terms and provisions of said CONTRACT; and,

WHEREAS: the CONTRACTOR in response to said request for proposal, has submitted to the NTIFA on the manner and at the time specified, a proposal in accordance with the terms of this CONTRACT and the NTIFA has declared the above-named CONTRACTOR to be qualified as the successful applicant(s) and has duly awarded this contract to said CONTRACTOR:

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants herein contained, the parties to this CONTRACT have agreed, and hereby agree, as follows:

1) TERM/RENEWAL

- A. This CONTRACT shall be for a period of one year from the original date approved unless terminated by either party as set forth in section (1) (C) of this Agreement.
- B. This CONTRACT may be renewed on an annual basis for two additional terms provided both NTIFA and CONTRACTOR are in agreement of renewal. Should the NTIFA desire to renew the CONTRACT, a written preliminary notice will be furnished to the CONTRACTOR prior to the expiration date of the CONTRACT so long as sufficient appropriations have been made for the particular fiscal year for which the renewal is sought.
- C. Either party may terminate this Agreement with (30) days advanced written notice to the other party, with or without cause.

2) STATEMENT OF WORK/PURPOSE AND GENERAL REQUIREMENTS

- A. The CONTRACTOR shall, in a good and first-class, workman-like manner, at his own cost and expense, furnish all labor, materials, tools, and equipment required to perform said work in strict accordance with this CONTRACT. Request for Proposal, Contract Specifications, Specific Profisions and Area Identification Maps thereto, all of which is hereby made a part of this CONTRACT as fully as if the same were set out at length.

- B. The services to be provided under these specifications shall be accomplished in a prompt and timely manner as set forth in the Request for Proposal.
- C. The CONTRACTOR shall, at all times, observe and comply with all Federal and State laws and all City of Norman ordinances, rules and regulations which in any manner affect the conduct of the work to be performed pursuant to these specifications and in accordance with the terms of the CONTRACT.

3) ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this CONTRACT, the inconsistency shall be resolved by giving precedence in the following order:

(1) Contract articles, (2) Request for Proposal, (3) Other references.

4) CHARGES AND REIMBURSEMENT

- A. Expenses not usually incurred in regular lawn maintenance as described in the proposal may be reimbursable at the discretion of the Director of Parks and Recreation or his designee. Any other expenses must be approved prior to the start of the job in order to be reimbursable.
- B. Payment Schedule:
Invoices shall be submitted to the Parks and Recreation Department, on a monthly basis.
Invoices shall include CONTRACTOR'S company name, address, phone number(s), invoice number, date and a detailed listing of work performed and corresponding dates for same.

5) DETERMINATION OF COMPLETION OF WORK AND PAYMENT

On completion of the work but prior to the acceptance thereof by the NTIFA, it shall be the duty of the Superintendent of Parks, or his designee, to determine that said work has been satisfactorily completed and fully performed in accordance with said CONTRACT documents; and upon making such determination shall so notify the NTIFA that payment is to be made.

6) PROOF OF INSURANCE

- A. The CONTRACTOR and his/her surety shall defend, indemnify and hold harmless the NTIFA, its officers and employees, from all suits, actions or claims of any character brought for or on account of any injuries or damages received or sustained by any person or persons or property caused by or from the CONTRACTOR or his/her employees or by or in consequence of any negligence in safeguarding the work or by or on account of any act or omission, neglect or misconduct of the said CONTRACTOR, of his/her employees, or from any claims or amounts arising or recovered under the Worker's Compensation Law or any other law, ordinances, order or decree; and as such, any money due the said CONTRACTOR, under and by virtue of his/her CONTRACT, shall be considered necessary by the Department in the defense or discharge of any such suits, actions or claims may be retained for the use of the Department; or in case no money is due, his/her surety shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid, shall have been settled and satisfactory evidence to that effect furnished to the NTIFA.

- B. The CONTRACTOR shall not commence work under this CONTRACT until he/she has obtained all insurance required under these specifications, and such insurance has been approved by the City Attorney; nor shall the CONTRACTOR allow any SUBCONTRACTOR to commence work on is/her subcontract until all similar insurance has been received and approved by the NTIFA.
- C. No provision of the CONTRACT or of any such aforementioned document shall be interpreted or given legal effect to create any obligation on the part of the NTIFA to third persons, including, but not limited to assignees of the CONTRACTOR, subcontractors and persons performing labor, furnishing material or in any other way contributing to or assisting in the performance of the obligations of the CONTRACTOR; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the NTIFA or in any such way to restrict the freedom of the NTIFA to exercise full discretion in its dealing with the CONTRACTOR.

7). NO SEPARATE LEGAL ENTITY

No separate legal entity or organization shall be deemed created by virtue hereof.

8). SEVERAL LIABILITY

- A. This Agreement shall not be construed as creating any agency or third party beneficiary agreements in any form or manner whatsoever.
- B. Both parties assume responsibility for its personnel, and will make all deductions for social security and withholding taxes, and contributions for employment compensation funds, and shall comply with all requirements of the Oklahoma Workers Compensation Act and the Oklahoma Governmental Tort Claims Act.
- C. Both parties herein, shall be exclusively liable for loss resulting from its torts of its employees acting within the scope of their employment.

9) MULTIPLE COUNTERPARTS

This Agreement shall be executed in multiple counterparts, each of which shall be deemed an original.

10) COMPLETE AGREEMENT

This Agreement is the complete agreement of the Parties regarding matters addressed herein, no oral agreements or representations shall be considered binding on the Parties.

11) SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this CONTRACT is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the CONTRACT.

The sworn, notarized statement below must be signed and notarized before this CONTRACT will become effective.

STATE OF: Oklahoma)

COUNTY OF: Cleveland)

ss.

_____, of lawful age, being first duly sworn, on oath says that she/he is the agent authorized by CONTRACTOR to submit the above CONTRACT to the CITY. Affiant further states that CONTRACTOR has not paid, given, donated, or agreed to pay any officer or employee of the CITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.

Pitzer's Lawn Management, Inc.

CONTRACTOR

Signed: _____

Authorized Representative

Title: Vice-President

Address: 11401 S. Broadway
Edmond, OK 73034

Telephone: 405.844.8908

Email address: david.e.pitzer@pitzerlm.com

Subscribed and sworn to before me this 15th day of September, 2014.

Denise K. Kemp

Notary Public

12-24-2016 09000071

My Commission Expires, Commission Number

(Corporate Seal) (where applicable)

ATTEST:

NORMAN TAX INCREMENT FINANCE AUTHORITY:

Approved as to form and legality this 15th day of September, 2014.

[Signature]

City Attorney

Approved by the NTIFA this _____ day of _____, 2014.

ATTEST:

Secretary

Chairman

SPECIFIC PROVISIONS

GENERAL:

The following provisions shall apply to all Sections of the specific provisions.

The Norman Tax Increment Finance Authority (NTIFA) desires to contract services for lawn care and irrigation system maintenance at Legacy Park located at 1898 Legacy Park Drive. The following specific provisions apply to these services:

Workmanship:

It is the intention of the NTIFA to require the highest level of quality in Park Maintenance compatible with standard practices as specified by the landscape maintenance details of this agreement.

The Contractor shall ensure that all work under this agreement is supervised by Contractor-employed supervisory personnel who are technically qualified and possess management skills required to implement modern methods and newly developed horticulture procedures.

The Contractor shall ensure that all work under this agreement is performed by fully qualified experienced personnel directly employed by the Contractor. Additionally, the Contractor shall ensure that Contractor's employees are personally presentable at all times, and that such employees wear an appropriate uniform shirt, acceptable to the Superintendent of Parks or designated representative, containing Contractor's identification, when such employees are performing services under this agreement.

The Contractor's vehicles shall be identified with the company name, vehicle number, and/or logo and phone number.

Materials:

Water shall be provided by the NTIFA.

All equipment and tools shall be furnished by the Contractor and shall be properly maintained in proper working condition. Proper equipment should be used for each job task in order to provide a professional looking lawn and grounds.

Fertilizers shall be complete, furnishing the required nutrients to keep lawns, trees, shrubs and other plants in a healthy and vigorous growing condition.

Replacement trees, shrubs, ground cover and other plants shall be of a size, condition and variety specified by the Superintendent of Parks or designated representative. All materials shall be inspected by the NTIFA prior to installation.

Irrigation replacement components shall be of equal or higher quality of existing irrigation system components and approved by the Superintendent of Parks or designated representative.

Inspections:

The NTIFA shall evaluate services performed on a regular occurrence. Inspections may occur daily, but shall not be less than once per week. The NTIFA will identify and communicate to the Contractor's representative, areas of unsatisfactory work or of inadequate performance by the Contractor. The Contractor shall correct such identified unsatisfactory work or inadequate performance within seventy-two (72) hours.

Payments:

Payment for work performed shall be on a monthly basis for the previous month's work. Contractor shall submit invoices at a minimum of once a month; however, by-monthly invoicing is also acceptable.

The NTIFA will make payment within thirty (30) days from the date the NTIFA receives the invoice. If the maintenance work does not meet the Specifications and is deemed unsatisfactory by the Superintendent of Parks or designated representative, the NTIFA will notify the Contractor within ten (10) days from the date the NTIFA receives the invoice and the invoice will be returned to the Contractor. The Contractor may resubmit the invoice when the corrective work is completed to the satisfaction of the Superintendent of Parks or designated representative, and the thirty (30) day payment cycle will begin from the date the invoice is resubmitted and received by the NTIFA.

SECTION 1 – Lawn Services:

Lawn services shall consist of litter removal, mowing, edging, weeding, trimming, fertilizing and weed control. Services are to be provided at a minimum of one time per week during the growing season, which generally is expected to be from April through November. The NTIFA expects lawns and grounds to be professionally maintained consisting of, but not limited to the following:

- 1) Grass shall be cut and maintained at a professional, uniform one and one-half to two inches (1.5" – 2") level for all grass during the spring, summer and fall months, edged and free of weeds.
- 2) Shrub beds shall be trimmed and free of weeds.
- 3) Trees and shrubs shall be trimmed and properly shaped, as needed.
- 4) Mulch is to be contained in designated areas. Contractor shall supply replacement mulch as needed.
- 5) Liquid edger (or equivalent) shall be used to prevent grass and weeds from growing in pavement and sidewalk cracks, along curbs, and anywhere grass/weeds cannot be reached by a weed eater.
- 6) Prior to mowing, the Contractor shall remove trash, litter, loose objects and debris from the area to prevent cutting into small unsightly pieces or the launching of objects with cutting blades.
- 7) The Contractor shall keep the premises and surrounding area free from accumulation of cuttings, debris and trash caused by operations under the contract. Contractor is responsible for removing and disposing all trash and debris from the work site.
- 8) Contractor shall be conscious of park users and perform mowing tasks in a safe manner.

Edging:

- 1) Edging shall be performed at a minimum of two times per month.
- 2) Edge lawns against all paved areas; around valve boxes and other utilities shall be kept neatly edged.
- 3) Special consideration shall be given to the safety of pedestrians in the area while edging.

Blowing:

- 1) All hardscape surfaces shall be blown free of clippings after every mowing and edging. In accordance with City of Norman Ordinance Number O-1213-34, Contractor shall not "blow, sweep, dump, direct, or place leaves, grass clippings, or any yard debris into any street, storm drain, ditch, creek, pond or waterway."

Raking:

- 1) To be performed on an as-needed basis to remove leaves from the lawns (most often during the fall months).
- 2) Vacuuming or blowing may be employed instead of raking.

Tree Wells:

- 1) Tree wells in lawns shall be maintained free of turf and weeds at all times.

Ground Cover Standards:

The Contractor shall ensure that ground cover areas receive weeding, fertilization, trimming behind curbways and watering.

Utilize appropriate herbicide, mechanical or hand weeding in order to maintain a neat and attractive appearance, year-round. Pre-emergent herbicides may be used in tree and shrub basins, planter areas, mulched areas, as well as ground cover areas.

Tree and Shrub Standards:

Shrubs:

- 1) Annually prune any growth from the top that is abnormal above the remaining shrub.
- 2) All pruning and trimming cuts must be made clean.
- 3) Remove all trimmings from the job site the same day.

Trees:

Pruning Trees:

- 1) International Society of Arboriculture (ISA) pruning standards shall be used.
- 2) Broad leaf evergreen trees may be pruned and thinned throughout the year, while deciduous trees shall be pruned only during the months of November through March, unless for vandalism, wind damage or disease.
- 3) All cuts shall be made with a clean, even cut near the nearest bud or other branch.
- 4) All trees shall be inspected by the Contractor periodically to determine if any damage has been done to trunks by mowing machines, wind, vandalism, etc. Repair all damaged areas immediately to minimize damage to the bark, trunk or canopy. All broken branches shall be properly pruned immediately. All trees leaning due to wind, rain, vandalism, etc. shall be straightened and guyed as approved, if necessary.
- 5) Trim any "suckers" and water shoots.
- 6) Remove all trimmings from the job site the same day.

Staking:

- 1) All tree stakes and additional supports shall be inspected and maintained to prevent girdling of trunks or branches.

Fertilizer and Weed Control:

Contractor shall furnish and apply proper types and amounts of fertilizer and weed control treatments for the entire premises, including flowerbeds, shrubs, trees, etc. at proper times throughout the year. It is the Contractor's responsibility to maintain a professional looking lawn without weeds, bare spots, scorched grass, diseased shrubs or trees, dead branches, etc. **Proposal shall include a one-year schedule showing proposed fertilizer, weed killer, or any other lawn or flowerbed substances that will be applied to lawns and flower beds.** Contractor shall furnish to the Superintendent of Parks or designee, a Work Report, or a receipt if done by someone other than the Contractor, each time any type of substance is applied. Work Report/receipt shall include type of treatment provided, the date applied, the location and the specific area(s) that were treated.

Hazardous Substances:

Contractor shall ensure that labels on containers of hazardous substances are not removed or defaced. If substance has been placed in containers other than their original container, such container must be labeled. Labels shall include the name of the product, the hazardous substance(s) it contains and instructions in case of emergency. Material Safety Data Sheets shall be furnished if requested by the Superintendent of Parks or designee.

Damage to NTIFA Property:

Damage to NTIFA property by Contractor's employee(s) or sub-contractors shall be professionally repaired at no cost to the NTIFA. The Contractor shall complete such repair at Contractor's cost or reimburse the NTIFA for having the repair done by another Contractor.

Typical replacement cost to be assumed by the Contractor:

- 1) Contractor shall replace, at their expense, damaged plant material, due to the Contractor's maintenance practices, work performance or non-performance of services. Replacement standards shall be new container plants and shall be equal in size to the remaining growth in the ground or the surrounding existing mature size in the adjacent landscape area.
- 2) Replacement mulch for planter and formal landscaped areas and tree wells shall be provided by the Contractor.

SECTION 2 - Irrigation Services:

- 1) Irrigation maintenance will consist of activating, winterizing, monitoring and possibly repairing the irrigation system. Monitoring shall occur twice each month during the irrigation season, which is expected to be between May 1st and October 31st.
- 2) The Contractor will ensure proper irrigation maintenance and timing to provide a healthy growing lawn and plant materials. A qualified person will review each irrigation controller and inspect

irrigation system operation twice each month. Adjustments will be made to ensure proper coverage and moisture content for the turf and surrounding areas. **The City of Norman Water Conservation Program shall be followed.**

3) Time and length of watering shall be adjusted to the prevailing weather, as well as to the time of day that has the least amount of wind. The NTIFA prefers watering time to be from 12:00 a.m. to 6:00 a.m., whenever possible. Adjustments to the irrigation schedule shall be changed at the direction of the NTIFA during drought conditions.

4) The Contractor shall notify the Superintendent of Parks or designated representative of any controller that does not perform to the manufacturer's specifications.

5) Contractor shall be capable of performing repairs and modifications of irrigation system. Necessary repairs shall be performed on a "time and materials" basis, only after approval by the Superintendent of Parks or designated representative. Payments for approved time and materials repairs shall be in addition to irrigation service maintenance contract payments and shall be made within 30 days following receipt of invoice for provided repair work. Repairs to the irrigation system caused by the Contractor shall be repaired by the Contractor within 72 hours at the Contractor's sole expense.

